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NOTE

From: Presidency
To: Working Party on Information Exchange and Data Protection (DAPIX)
Subject: Directive (EU) 2016/681 of the European Parliament and of the Council of 27 April 2016 on the use of passenger name record (PNR) data for the prevention, detection, investigation and prosecution of terrorist offences and serious crime ("PNR Directive")
- Overview on the legal and technical implementation

1. Directive (EU) 2016/681 (the "PNR Directive") was adopted on 27 April 2016 and entered into force on 24 March 2016. According to Article 18(1), Member States shall bring into force the laws, regulations and administrative provisions necessary to comply with the Directive by 25 May 2018. The transposition and further implementation of the Directive requires Member States to adopt a number of legislative, administrative and technical measures. Member States must set up or designate specific entities (Passenger Information Units - PIUs) responsible for the collection and storage of PNR data from air carriers and their processing for the purposes of preventing, detecting, investigating and prosecuting terrorist offences and serious crime. The PIUs shall also be responsible for exchanging both PNR data and the result of processing those data with the PIUs of other Member States and with Europol, as well as, under specific conditions, with third countries.

2. The Council, at its meeting of 18 November 2018, decided to deal on a regular basis with the PNR implementation. As a follow-up, COREPER, at its meeting of 23 November, tasked DAPIX to monitor the implementation of the PNR Directive.

DAPIX started this work at its meeting on 1 December 2016 and will continue its work in close cooperation with COSI in order to ensure a regular update on the state of play and to define the issues which require a coordinated approach among Member States.

3. At its meeting of 19 December 2016, COSI welcomed the Commission's indicative implementation plan.¹ The most important measures identified by the Commission were:

"(a) The national legislation transposing the Directive shall provide for the legal basis for the collection and processing of PNR data and shall include all the data protection safeguards provided for in the Directive and in the horizontal provisions applicable, in particular those of Directive (EU) 2016/680² ("the Police Directive") which replaces Framework Decision 2008/977/JHA and which will need to be transposed, save exceptional circumstances, by 6 May 2018 i.e. before the deadline for transposition of the EU PNR Directive.

In drawing up their regulatory framework, Member States should consider providing for:

- A clear indication of the databases against which PNR data may be compared within the meaning of Article 6(3)(a);
- The main principles governing the creation, update and operation of the pre-determined criteria against which PNR data are processed within the meaning of Article 6(3)(b) and (4).

(b) Member States need to identify and designate the national authority or authorities that will host the PIU and how the latter will be incorporated in their administrative structure.

¹ 15087/16

² OJ L 119, p. 89.

(c) The PIU needs to be equipped with adequate technical infrastructure allowing for the storage, processing and analysis of PNR data in accordance with the terms of the Directive.

(d) The PIU needs to be properly staffed and the PIU personnel must receive adequate training in order to be able to perform its duties of effectively analysing PNR data for law enforcement purposes.

(e) Member States must identify and designate the competent authorities entitled to request and receive PNR data or the result of processing those data from the PIU.

(f) Air carriers must be informed of the technical specifications concerning the transfer of PNR data and the necessary tests must be conducted to ensure their connectivity with the technical infrastructure of the PIU.

(g) Appropriate solutions must be devised to ensure that the PIUs of various Member States are able to exchange PNR data effectively and in a timely manner."

4. The Presidency suggests that the monitoring of the PNR implementation within DAPIX follows as closely as possible the Commission's indicative plan. With this in mind, the table in ANNEX sets out six different implementation steps on which Member States should regularly report in order to make available a reliable overview on the state of play. Delegations are invited to discuss the structure of the table and the way forward at the DAPIX meeting of 6 February 2017.

MS	Legal implementation	Setting up a PIU	Technical infrastructure for PIUs	Staffing of the PIU	Competent authorities	Ensuring carrier connectivity	Exchange of PNR data between PIUs
BE							
BG							
CZ							
DK							
DE							
EE							
IE							
EL							
ES							
FR							
HR							
IT							
CY							
LV							
LT							
LU							
HU							
MT							
NL							
AT							
PL							
PT							
RO							
SI							
SK							
FI							
SE							
UK							
